



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 30-110 – Department of Medical Assistance Services Eligibility and Appeals October 2, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The proposed regulations will establish rules allowing a Medicaid applicant's parent, caretaker relative, legal guardian or conservator, attorney-in-fact or authorized representative to sign and file an official application form on behalf of the applicant. In addition, the proposed rules will define who can serve as an authorized representative for adult Medicaid applicants who are at least 18 years old, child applicants who are less than 18 years old, and for deceased applicants under various circumstances.

Estimated Economic Impact

The proposed regulations will establish rules for who can sign and file Medicaid applications on behalf of an applicant. Currently there are no regulations on who may file and sign a Medicaid application. Application procedure is handled under a departmental policy and procedure. Medicaid serves aged, disabled, pregnant women, children, and families with children. In 2001, approximately 170,000 applications were received from these individuals for Medicaid.

The proposed regulations will allow an applicant's parent, caretaker relative, legal guardian or conservator, attorney-in-fact or authorized representative to sign and file an official application form on behalf of the applicant. In addition, the proposed rules will define who can serve as an authorized representative for adult applicants who are at least 18 years old, child applicants who are less than 18 years old, and for deceased applicants under various circumstances. For example, employees of the Department of Mental Health, Mental Retardation, and Substance Abuse will be allowed to submit a Medicaid application for patients, a minor child who is a parent will be allowed to apply for his or her own child, an authorized employee of a child placing agency will be allowed to apply for a child in foster care, etc.

In the past, the Department of Medical Assistance Services (the department) received a few Medicaid applications that were filed without the applicant's knowledge or consent. Examples include a bill collector or a healthcare provider applying for a patient, or two siblings having disagreement on whether to apply for Medicaid or not on behalf of their parent. These actions have resulted in inappropriate eligibility determinations and payment of health care expenses. As a response, the department implemented the Medicaid application policy and procedures, which have been in effect since 1996. The proposed regulations contain the same requirements as those currently enforced under the department's policy. Thus, no significant economic effect is expected upon promulgation of the proposed regulations. However, the proposed rules will provide regulatory authority to the department in enforcement of Medicaid application procedure already in place and may eliminate litigation costs that could arise if someone challenges the department's authority. Also, the proposed regulations will provide publicly available information as to who can file a Medicaid application and under what circumstances someone may act on behalf of another.

A significant change that has been implemented with regards to who can sign an application since 1996 is the change in September 2002 when a caretaker relative was allowed to apply for Medicaid on behalf of a child under the age of 18. Previously, the department did not allow relatives such as sister in-laws or grand parents taking care of a grandchild to apply for Medicaid unless the relative had legal custody of the child or the parent designated the relative to act on the parent's behalf. The reason for this change was the statutory change enacted by the 2002 Session of the General Assembly, Item 324 C of the Appropriation Act, allowing any adult caretaker relative with whom a child lives to file an application for Family Access to Medical

Insurance Security (FAMIS) Plan for children. The application procedures for Medicaid and FAMIS are interrelated. In fact, there is a combined application form for both programs. Though both may cover the same services for children, FAMIS is for uninsured children whose parents have too much income to qualify for Medicaid.¹ For each child health application, the department must determine first if the child is eligible to receive services under Medicaid before making a FAMIS eligibility determination. Thus, it is critical that both programs, FAMIS and Medicaid, have similar rules regarding who can file the application. Without similar rules, an application may be submitted by a caretaker relative and deemed unacceptable for Medicaid. However, the FAMIS program would permit this application to be accepted. The problem arises because the child must be found ineligible for Medicaid due to excess income before a FAMIS eligibility determination can be performed. An application filed by someone not authorized to do so would prohibit an eligibility determination for Medicaid which in turn would prevent making an eligibility determination for FAMIS.

This change will affect all applications for Medicaid and is expected to increase the number of applications received on behalf of children for assistance under the Medicaid program, such as doctor visits, hospital coverage, prescription drugs, etc. The department believes that some children live with caretaker relatives that, in the past, were not able to apply for Medicaid on behalf of the child. With the proposed change, caretaker relatives will be authorized to apply on behalf of the child. Children who are affected by this change currently may not be receiving appropriate health care, or if they are, medical expenses may be paid out of pocket or by some other entity such as a charity. Thus, allowing caretaker relatives to apply for Medicaid on behalf of a child may increase the services provided to that child. If services are currently received, but paid by some other entity, the funding source for these health care expenses will shift to the Medicaid program. In both cases, the proposed change is expected to increase the health care payments under Medicaid. The department believes that the increase in the number of applications may be minimal, but does not have any estimate for the size of the potential increase in expenditures under Medicaid.

¹ Medicaid covers children with family income at or below 133% of the federal poverty guidelines. FAMIS covers children who have family income above 133% of the federal poverty guidelines, but below 200% of the federal poverty guidelines.

Businesses and Entities Affected

The proposed regulations will apply to approximately 170,000 Medicaid applicants annually. However, the substantive changes in the proposed regulations are estimated to affect only a small number of children who live with a caretaker relative who does not currently have custody of the child or authorization from the child's parent to file an application form.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

With the proposed changes, some additional children may receive services under Medicaid. To the extent this happens, there is likely to be an increase in demand for labor in the health care industry. Because of the minimal impact on the number of applications expected to be received as a result of this regulation, the department does not project a significant increase in staffing needs.

Effects on the Use and Value of Private Property

To the extent the services provided to additional individuals improve the profitability of health care providers, there may be a positive impact on their value.